TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

No. 81.

THE PEOPLE OF THE STATE OF NEW YORK UPON THE RELATION OF THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, PLAINTIFF IN ERROR,

vs.

NATHAN L. MILLER, AS COMPTROLLER OF THE STATE OF NEW YORK.

IN ERROR TO THE SUPREME COURT OF THE STATE OF NEW YORK.

FILED AUGUST 16, 1904.

(19,444.)

(19,444.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

No. 81.

THE PEOPLE OF THE STATE OF NEW YORK UPON THE RELATION OF THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, PLAINTIFF IN ERROR,

vs.

NATHAN L. MILLER, AS COMPTROLLER OF THE STATE OF NEW YORK.

IN ERROR TO THE SUPREME COURT OF THE STATE OF NEW YORK.

INDEX.

	Original.	Print.
Remittitur from court of appeals in case of N. Y. C. & H. R. R. R. Co. *vs.* Knight, comptroller	*a*	1
Papers on appeal to court of appeals in case of N. Y. C. & H. R. R. R. Co. *vs.* Knight, comptroller	*d*	2
Notice of application for an order for a writ of certiorari and for said writ	1	2
Decision of comptroller declining revision	3	3
Order for issuance of writ of certiorari	4	4
Writ of certiorari	6	4
Petition for writ of certiorari	9	6
Exhibit—Bond	17	10
Return to writ of certiorari	21	12
Exhibit A—Application for readjustment	23	13
B—Proceedings on application	27	16
Testimony of Frederick H. Meeder	27	16

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., JULY 7, 1905.

	Original	Print
Exhibit A—Recapitulation, distribution of assets October 31, 1900	47	29
B—Certificate of incorporation of Merchants' Despatch Transportation Company	47	29
C—Statement of outstanding funded debt, October 31, 1900	48	30
D—Report of relator to comptroller for year ending November 1, 1895	49	30
E—Report of relator to comptroller for year ending October 31, 1897	54	34
F—Relator's annual report to comptroller for year ending October 31, 1900	58	36
Stipulation as to Exhibits D, E, and F	64	39
Stipulation as to record	66	40
Findings of appellate division	67	40
Judgment of appellate division	71	42
Opinion of appellate division	73	43
Defendant's notice of appeal to court of appeals	78	46
Relator's notice of appeal to court of appeals	79	46
Stipulation as to record	80	47
Judgment on remittitur, February 14, 1903	81	47
Opinion of court of appeals in case of N. Y. C. & H. R. R. R. Co. *vs.* Knight, comptroller	83	48
Papers on appeal to court of appeals in case of N. Y. C. & H. R. R. Co. *vs.* Miller, comptroller	95	55
Notice of application for an order for a writ of certiorari and for said writ	96	55
Decision of the comptroller upon proceedings remitted from court of appeals	98	56
Order for issuance of writ of certiorari	100	56
Writ of certiorari	102	57
Petition for writ of certiorari	104	58
Exhibit A—Bond	117	66
Return to writ of certiorari	122	68
Proceedings before the comptroller	126	70
Testimony of F. H. Meeder	126	70
Report of N. Y. C. & H. R. R. R. Co., Oct. 31, 1900	143	81
Exhibit A—Statement of equipment for October 31, 1900	147	83
B—Statement of mileage basis off the Vanderbilt lines for the year 1900	147	83
C—List of individual cars, by their numbers, as they pass back and forth from one company to another; report of the New York Central and Hudson River Railroad Company for the year ending October 31, 1900	148	8
Stipulation as to record	155	8
Order of appellate division	156	9
Opinion of appellate division	157	9
Relator's notice of appeal	160	9
Stipulation as to record	161	9

	Original.	Print
Remittitur from court of appeals in case of N. Y. C. & H. R. R. R. Co. *vs.* Miller, comptroller	162	93
Opinion of court of appeals in case of N. Y. C. & H. R. R. R. Co. *vs.* Miller, comptroller	165	95
Judgment on remittitur, March 12, 1904	167	96
Petition for writ of error	172	97
Bond on writ of error	182	103
Assignment of errors	186	105
Citation (copy)	197	111
Writ of error (copy)	199	112
Clerk's certificate	200	113

a Court of Appeals.

STATE OF NEW YORK, *ss*:

Pleas in the Court of Appeals Held at the Capitol, in the City of Albany, on the 13th Day of January, in the Year of Our Lord One Thousand Nine Hundred and Three, Before the Judges of said Court.

Witness, the Hon. Alton B. Parker, chief judge presiding.
W. H. SHANKLAND, Clerk.

Remittitur, January 14th, 1903.

THE PEOPLE OF THE STATE OF NEW YORK upon the Relation of the New York Central and Hudson River Railroad Co., Appellant-Respondent,

ag'st

ERASTUS C. KNIGHT, as Comptroller of the State of New York, Respondent-Appellant.

Be it remembered, that on the 31st day of October in the year of our Lord one thousand nine hundred and two Erastus C. Knight, as comptroller of the State of New York, the respondent-appellant in this proceeding, came here into the court of appeals, by Hon. John C. Davies, attorney general, his attorney, and filed in the said court a notice of appeal and return thereto from the order & judgment of the appellate division of the supreme court in and for the third judicial department.

b And afterwards, The New York Central &c. Railroad Company, relator, appellant-respondent in said proceeding, afterwards appeared in said court of appeals by Ira A. Place, its attorney and also filed a notice of appeal from the aforesaid order & judgment.

Which said notices of appeal and the return thereto filed as aforesaid, are hereunto annexed.

Whereupon, the said court of appeals, having heard this proceeding argued by Mr. Ira A. Place of counsel for the appellant-respondent, and by Mr. Henry B. Coman, deputy attorney general, of counsel for the respondent-appellant, and after due deliberation had thereon, did order and adjudge that the order of the appellate division of the supreme court appealed from herein be, and the same hereby is modified as indicated in the opinion of Haight, J., and proceedings remitted to the comptroller to assess the tax accordingly, without costs to either party.

And it was also further ordered, that the record aforesaid, and the proceedings in this court, be remitted to the said supreme court, there to be proceeded upon according to law.

Therefore, it is considered that the said order be and the same hereby is modified &c. &c. as aforesaid.

And hereupon, as well the notice of appeal and return thereto aforesaid as the judgment of the court of appeals aforesaid, by them given in the premises, are by the said court of appeals remitted into the supreme court of the State of New York, before the justices thereof, according to the form of the statute in such case made and provided, to be enforced according to law, and which record
c now remains in the said supreme court before the justices thereof, &c.

W. H. SHANKLAND,
Clerk of the Court of Appeals of the State of New York.

COURT OF APPEALS, CLERK'S OFFICE,
ALBANY, January 14th, 1903.

I hereby certify, that the preceding record contains a correct transcript of the proceedings in said proceeding in the court of appeals, with the papers originally filed therein, attached thereto.

[SEAL.] W. H. SHANKLAND, Clerk.

d In the Court of Appeals.

THE PEOPLE OF THE STATE OF NEW YORK upon the Relation of the New York Central and Hudson River Railroad Company
against
ERASTUS C. KNIGHT, as Comptroller of the State of New York.

Papers on Appeal from Order.

Ira A. Place, attorney for appellant-respondent, Grand Central station, borough of Manhattan, N. Y. city, N. Y.

John C. Davies, attorney-general, attorney for respondent-appellant, capitol, Albany, N. Y.

1 Supreme Court, Albany County.

THE PEOPLE OF THE STATE OF NEW YORK upon the Relation of the New York Central and Hudson River Railroad Company
against
ERASTUS C. KNIGHT, as Comptroller of the State of New York.

Notice of Application for an Order for a Writ of Certiorari and for Writ.

SIR: Please take notice that a motion will be made by and on behalf of the New York Central and Hudson River Railroad Company, at a special term of the supreme court in and for the county

of Albany, to be held at the city hall in the city of Albany, N. Y., on the 16th day of November, 1901, at 10:30 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, for an order for a writ of certiorari, and also for a writ of certiorari, to be directed to you, to review the determination of the comptroller of the State of New York, dated September 13, 1901, a copy of which is hereto annexed, to be returnable according to law, and for
2 such other and further relief as may be proper.

Dated New York, October 10, 1901.

Yours, &c.,
IRA A. PLACE,
Attorney for Applicant, The New York Central and Hudson River Railroad Company, Room 417, Grand Central Station, Borough of Manhattan, New York City, N. Y.

To Hon. Erastus C Knight, comptroller of the State of New York, Albany, N. Y.

3 STATE OF NEW YORK:

COMPTROLLER'S OFFICE,
ALBANY, Sept. 13, 1901.

In the Matter of the Application of NEW YORK CENTRAL & H. R. R. R. COMPANY for a Revision and Resettlement of Taxes Assessed Against it under the Provisions of Chap. 908, Laws of N. Y. 1896, and the Several Acts Amendatory Thereof.

An application having been made by the above-named New York Central & Hudson River R. R. Company for a revision and resettlement of the taxes assessed and determined against it by the comptroller of the State of New York for the year ending Oct. 31, 1900, and the said comptroller having heard proofs offered on behalf of the said New York Central & Hudson River R. R. Company, in support of said application, and after due consideration thereof, the comptroller does determine that the assessment heretofore made against the said New York Central & Hudson River R. R. Company does not include taxes which could not have been lawfully demanded, and, therefore, declines to make any revision or readjustment of the same.

(Signed) THEO. P. GILMAN,
Deputy Comptroller.

4 At a special term of the supreme court court held in and for the county of Albany, at the county court house in the city of Albany, N. Y., on the 16th day of November, 1901.

Present: Hon. D. Cady Herrick, justice.